

IN THE HIGH COURT OF PUNAJB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No. 17903 of 2007
Date of Decision: November 27, 2007

Dr. Akash Goel

..... Petitioner

versus

Haryana Urban Development Authority and
others

..... Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta
Hon'ble Mr. Justice K.C. Puri

PRESENT: Shri H.S. Rakhra, Advocate for the petitioner.

HEMANT GUPTA, J.

By way of present writ petition under Article 226 of the Constitution of India, the petitioner has claimed issuance of a writ of mandamus directing the official respondents not to evict the petitioner from the premises mentioned in the petition forcibly and illegally. The petitioner has also sought issuance of writ in the nature of certiorari for quashing the notice dated 24.11.2007, Annexure P-5, issued by the Sub Divisional Engineer, PSD No. 11, (NH) Haryana PWD & BR Branch, Panchkula.

It is the case of the petitioner that the respondents have acted illegally and had forcibly tried to evict the petitioner from the shop situated in Khasra No. 26/10 in which the petitioner is in possession since 1993 as a tenant of one Brij Lal Passi, the original owner of the said land. It is alleged that the petitioner is one among several persons who have been earning their livelihood in various shops situated in the market around the

shop of the present petitioner situated in Old Panchkula on Shimla Kalka Highway.

As per averments made in the writ petition, the Haryana Urban Development Authority (for short “HUDA”) had acquired the said land in the year 1988 and that the petitioner has taken the shop on rent in the year 1993 from Brij Lal Passi. The petitioner has further averred that he had paid rent to Brij Lal Passi till 1999 and the respondents have not filed any suit for eviction or any proceedings under any of the act and law in force and, therefore, the petitioner cannot be dispossessed. Though the petitioner has made a reference that a civil suit for grant of alternative site is pending and fixed for evidence of the respondents for 12.12.2007 but the petitioner has not disclosed the fact that such suit was accompanied by an application for grant of ad interim injunction. Such ad interim injunction application was dismissed by this Court in Civil Revision No. 1611 of 2004 vide order dated 05.09.2006 while allowing the revision petition filed by the HUDA. This Court held to the following effect:-

“ The land has been acquired by the State Government in respect of which compensation has been deposited by the State Government. The plaintiffs were in occupation of the land, as per their stand as tenants under the land owners. Since compensation has been deposited in respect of the land acquired, the tenancy rights stand extinguished. Thereafter, the possession of the plaintiffs is unauthorised. The plaintiffs are encroachers on public land and have no right to carry on trade or business in the land which has since vested with the State Government. Reference may be made to the Constitution Bench judgment of Supreme Court reported as **Sodan Singh and etc etc vs. New Delhi Municipal Committee and another, AIR 1989 SC 1988** and **Maharashtra Ekta**

Hawkers Union and another vs. Municipal Corporation, Greater Mumbai and another, AIR 2004 SC 416”.

“.....The plaintiffs continued to be in possession of the land even after the same vested with the State Government. Mere long possession after the acquisition will not confer any legal or equitable right on the plaintiffs to seek injunction from the Court. Since the policy of allotment of plots is an administrative decision, the defendant had a right to change its policy decision, as may be considered appropriate, but the plaintiffs cannot seek injunction so as to restrain the defendants from changing its policy.....”

Since the injunction sought by the petitioner has been declined by this Court and such fact has not been disclosed by the petitioner in the writ petition, the petitioner has concealed the material fact so as to misled this Court. In the revision petition, it has been found that the land vested with the HUDA and the petitioner is the encroacher. Therefore, the petitioner is not entitled to seek any direction as sought by him in the present writ petition.

Consequently, present writ petition is dismissed with costs of Rs.2000/-.

(HEMANT GUPTA)
JUDGE

November 27, 2007
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(K.C. PURI)
JUDGE